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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,851

05/10/2006

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11001.163

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10/05/2011

EXAMINER

SUERETH, SARAH ELIZABETH

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

10/05/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,851	<b>Applicant(s)</b> HEINONEN, ANTERO	
	<b>Examiner</b> SARAH SUERETH	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/23/11 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 11 has been amended line lines 5-6 to include the limitation that "the hood not including a sensor, a damper, a water bath, at heat exchanger, and a separator for grease". However, applicant's disclosure shows the hood (10) with a grease separator (30) in all of the Figures.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11, lines 5-6, it is unclear whether the claims are excluding the hood from having any of the claimed components or the combination of the claimed elements. Also, claim 11 is required to use consistent language for the hood (line 4 says "at least one hood", line 9 states "each hood", etc). For Examination purposes, the claims were regarded as suggesting the hood does not have any of the claimed components.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hepner (4235220) in view of Molitor (4407266) and Fritz (4484563).

Hepner discloses a system for ventilating an appliance including an oven hood (12) having an exhaust connection (element 18, Fig. 4), joined to an exhaust duct (54) having one end joined to the hood (see Figure 4), and the second end of the exhaust duct joined to a cell (element 58) with one separator (Figure 4, see element 56) arranged vertically inside the cell (Figure 4).

However, Hepner does not disclose controlling the temperature of the exhaust or a separate grease cup to collect the grease from the filter.

8. Molitor discloses temperature control system including an exhaust-air duct (12) joined to an intake air connection (D) that is capable of varying the exhaust temperature and flow using a temperature sensor (42), a heat exchanger (H), a motorized fan (col. 6, line 18) and a damper (68).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hepner apparatus to use the temperature control system as taught by Moliter, in order to control the temperature of the exhaust stream to adjust the air flow to maintain the temperature of the exhaust gas at the preferred temperature (Molitor, col. 5, lines 24-38).

Neither Moliter nor Hepner explicitly show a grease cup arranged with the grease separator. Fritz discloses a grease separator (23) arranged vertically (See Figure 3) with a lower grease cup (110).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Moliter in view of Hepner apparatus to include a grease cup below the separator as taught by Fritz, in order to allow the grease to be easily collected and removed from the unit for outside disposal (col. 7, lines 5-13).

Regarding claims 12 and 13, the cell is regarded as elongated and horizontal as claimed (see Figure 4).

Regarding claim 14, Moliter shows a duct (D), but does not explicitly show nozzles attached to the duct. However, the examiner takes Official Notice that it was old and notorious in the art to use nozzles to supply air. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Moliter apparatus to include air supplying nozzles, for the well known purpose of increasing the velocity of the air supplied through the duct.

Regarding claim 15, intake air duct (D) is joined to ventilation duct (13).

Regarding claim 16, elements 26 and 27 are regarded as baffles.

Regarding claim 17, water is supplied through nozzles (38).

Regarding claims 18-20, Hepner does not disclose the relative dimensions of the air duct. The courts have held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. (In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), also MPEP 2144.04).

In this case, the precise size and shape of the mixing cell is a matter of obvious design choice.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 11-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH SUERETH whose telephone number is (571)272-9061. The examiner can normally be reached on Mondays through Friday 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah Suereth/  
Examiner, Art Unit 3749

/STEVEN B. MCALLISTER/  
Supervisory Patent Examiner, Art Unit 3749